

1 Was there any negotiation over the economic
2 provisions of this letter?

3 A I just don't know what you mean by negotiation.
4 Was I the person who engaged in the face-to-face discussions
5 with Mr. Bechtel about the terms of the economic
6 relationship, the answer is yes.

7 Q And those terms are embodied only in this letter?

8 A To the best of my recollection.

9 Q I'd like you to refer to the first paragraph after
10 item two on page one of that letter, and indicate to me how
11 this paragraph was applied following the approval of the
12 settlement agreement in the Monroe case.

13 A I don't remember. They received a bonus over
14 their regular hourly rate, if that's what you want to know.
15 I just don't remember what we did, frankly. They had surely
16 done yeoman's service and done an excellent job. You know
17 what it's like to get the FCC to not renew a license. So
18 Monroe was a landmark case. It made history. From our
19 point of view it took pornography off the air. Oak
20 Industries, which was a leading protagonist in the case,
21 canceled all of its licenses around the country, and in
22 general the standard of public service broadcasting in the
23 country was increased, as I suspect you people may have
24 judicial notice. You especially, Mr. Hutton, you were
25 practicing at the time. We thought we had done a lot of

1 good with this case.

2 Q I was just asking about what was paid to the law
3 firm.

4 A Well, I'll tell you the kind of work we felt they
5 had rendered to us, we exceeded --

6 THE COURT: Okay, Mr. Gilbert. Be a little bit
7 cautious and just answer his questions. You'll have time on
8 Redirect, but in fairness to Mr. Hutton, he's only asking
9 for narrow answers to narrow questions.

10 Go ahead, sir.

11 BY MR. HUTTON:

12 Q Was the bonus twice the firm's usual rates?

13 A I just don't remember. It very well be Mr. Cole
14 may remember. We gave them a substantial bonus. I have to
15 answer it this way, we were more than satisfied with the
16 high quality of legal services. I regard myself as a very
17 skilled lawyer who can evaluate legal services. I am
18 telling you that Mr. Bechtel, in my opinion, was a skilled,
19 moral, ethical, quality practitioner in a case that was
20 extraordinarily difficult.

21 THE COURT: Mr. Gilbert, again, you're going
22 beyond what he's asking.

23 THE WITNESS: Okay.

24 THE COURT: He wants to know -- Well, the question
25 speaks for itself. He wanted to know if it was the normal

1 rate this attorney was getting or was there some kind of an
2 add-on when you entered into the agreement on January 10,
3 1983.

4 THE WITNESS: Your Honor, the paragraph says there
5 was an add-on. We paid them that, at least that fee I would
6 believe.

7 THE COURT: Mr. Hutton, does that help you get
8 back on track?

9 MR. HUTTON: That actually raises a question.

10 BY MR. HUTTON:

11 Q Doesn't the agreement specify no bonus, just a
12 normal hourly fee payment in the event of a settlement with
13 the other parties?

14 A That's what the agreement says, and we didn't
15 believe that they were entitled to that. We believed they
16 were entitled to more.

17 Q So you did vary from the terms of the letter
18 agreement.

19 A In favor of the other side, yes. I know we did, I
20 just don't know what we did. But probably we lived up to
21 the first part.

22 MR. HUTTON: I don't know if I've moved these into
23 evidence. I'd like to move Exhibits 19 and 20 into
24 evidence.

25 THE COURT: 19 is the joint request for approval

1 of settlement. Yes.

2 Any objection?

3 MR. COLE: No, Your Honor, although speaking on
4 behalf of Mr. Shook who is not here, he might raise the
5 pagination question, but I am not raising that.

6 THE COURT: I don't see that it's utility even in
7 findings or any motions practice. I think the specific
8 areas will be able to be hit very quickly. So I'll overlook
9 that for the purposes of this document and receive it into
10 evidence.

11 Reading Exhibit 19 received into evidence at this
12 time as Reading Exhibit 19.

13 (The document referred to,
14 having been previously marked
15 for identification as Reading
16 Exhibit No. 19, was received
17 in evidence.)

18 THE COURT: What about with respect to Reading
19 Exhibit 20?

20 MR. HUTTON: I'd like to move that also, Your
21 Honor.

22 THE COURT: That's a two-page document.
23 Mr. Cole, any objection?

24 MR. COLE: No objection, Your Honor.

25 THE COURT: Reading Exhibit 20 is received in

1 evidence at this time.

2

3 (The document referred to,
4 having been previously marked
5 for identification as Reading
6 Exhibit No. 20, was received
7 in evidence.)

8 MR. HUTTON: Now I'd like to have marked for
9 identification as Reading Exhibit 21 a one-page letter from
10 Harry F. Cole to Howard Gilbert that was produced in
11 discovery in this case by Adams Communication.

12 THE COURT: That letter is dated June 30, 1999,
13 correct?

14 MR. HUTTON: Correct.

15 THE COURT: The Reporter will mark that as
16 identified by Mr. Hutton as Reading Exhibit No. 21 for
17 identification.

18 (The document referred to was
19 marked for identification as
20 Reading Exhibit No. 21.)

21 BY MR. HUTTON:

22 Q Mr. Gilbert, do you recall receiving this letter?

23 A Yes.

24 Q Did you countersign the letter on behalf of Adams
25 Communications?

1 A Yes.

2 Q When did Adams Communications first retain Bechtel
3 & Cole to represent them in this proceeding? To represent
4 them at all.

5 A Once again I won't be clear on dates, but
6 sequentially a number of months before that, perhaps as much
7 as a year, maybe earlier than that, we talked to them. We
8 retained them with this letter.

9 Q But the Adams application had been filed in 1994.
10 It was filed by Bechtel & Cole on behalf of Adams
11 Communications.

12 A Oh, okay.

13 Q Is that correct?

14 A Yes, right.

15 Q With reference to that date, it was filed on June
16 30, 1994. With reference to that date do you have an
17 estimate of when Adams Communications retained Bechtel and
18 Cole?

19 A What do you mean by the word retained? You mean
20 we agreed to pay them or we agreed to have them serve as our
21 attorneys?

22 Q Agreed to have them serve as your attorneys.

23 A A number of months before, maybe as much as a
24 year. I'm just not sure.

25 Q Are the terms set forth in this letter consistent

1 with the understanding that was reached when the firm was
2 retained as to their compensation for this case?

3 MR. COLE: Objection, lack of foundation. It
4 hasn't been established that there was an agreement reached
5 at the initial commencement of their representation.

6 MR. HUTTON: I'm asking that question.

7 THE COURT: I'm going to sustain the objection and
8 ask you to rephrase your question. Don't ask a witness
9 whether this letter does something because there's two
10 letters in the record now. Refer to it as Reading Exhibit
11 21. Please. Or Mr. Cole's letter to you dated June 30.

12 Let's be specific with respect to the document so
13 that the record is clear. And just back up a little bit and
14 lay a little bit more foundation here with respect to the
15 retention of the firm and how the retention ties in with
16 this letter.

17 MR. HUTTON: All right.

18 BY MR. HUTTON:

19 Q With reference to Adams Exhibit 21 [sic], does
20 that letter memorialize an understanding that was reached
21 earlier as to compensation of Bechtel & Cole for this case?

22 A Yes.

23 Q And was that understanding reached at or around
24 the time Bechtel & Cole was first retained to represent
25 Adams Communications?

1 A I don't really remember. Probably, but I don't
2 remember.

3 Over a period of dealing with Mr. Bechtel for 30
4 years, I don't remember ever having, except in these cases,
5 had a fee agreement with him. We just paid the fees and
6 worked it out over time.

7 Q But in these cases you did enter into an agreement
8 to pay a bonus under certain circumstances.

9 A Yes.

10 Q Is this, is the, are the payment terms set forth
11 in Exhibit 21 consistent with the way the firm has billed
12 Adams Communications from the time it was retained by Adams
13 Communications?

14 A Yes.

15 Q So would it be fair to say, as far as you're
16 concerned, that Exhibit 21 embodies the agreement from day
17 one with the law firm?

18 A From the day we made it which goes back many
19 years, yes.

20 Q From the day you retained the law firm?

21 A We've had a long pattern of dealing, I knew they
22 would charge fair fees, and when they started doing work for
23 us in this matter we didn't set it forth in writing. I
24 don't ask for fee letters when I represent people. I just
25 don't believe in that. I know Mr. Bechtel and Mr. Cole are

1 fair people. The clients knew we would have a fair
2 arrangement. So we didn't have a fee arrangement at the
3 beginning. We just said we'll work it out.

4 Q What prompted the parties to memorialize it in
5 1999?

6 A Well, we already had the oral agreement, which as
7 far as I'm concerned is binding. I don't remember why, but
8 you know, people die among other things.

9 Q Between the time the agreement was entered into
10 orally and the time it was memorialized in this letter, were
11 there any amendments or modifications to the understanding?

12 A No.

13 MR. HUTTON: Your Honor, this might be a good time
14 to break for lunch. I'm coming into a new section.

15 THE COURT: No problem. Let's go off the record.

16 (Discussion off the record)

17 THE COURT: On the record.

18 We are in recess until 1:30 by the clock in the
19 back of the room.

20 (Whereupon, a luncheon recess was taken from 12:04
21 p.m. to 1:30 p.m.)

22 //

23 //

24 //

25 //

1 A F T E R N O O N S E S S I O N

2 1:30 p.m.

3 THE COURT: On the record.

4 I find, at least in my accounting form here, I
5 find two other exhibits of Adams that I don't have indicated
6 as having been received in evidence. Those would be 28 and
7 29.

8 MR. COLE: I'm showing 28 as in as of 1/10; and 29
9 I'm showing as in over objection. Both of those over
10 objection.

11 THE COURT: Now I go to my copy of the exhibits, I
12 find that I do have them marked as received.

13 MR. COLE: I, on the other hand, Your Honor, am
14 showing that Adams 19, I don't have a record of whether
15 Adams 19 was offered or received, but I could have missed
16 that, which is the May 28, '89 version of the management
17 services agreement.

18 THE COURT: I'd be surprised if that's the case.
19 Let me look at my exhibits.

20 MR. COLE: When Mr. Bechtel gets on a roll, he
21 loses --

22 (Laughter)

23 THE COURT: Off the record a minute.

24 (Pause)

25 THE COURT: On the record.

1 According to my log, it's been received on the
2 10th. I don't have it marked on my copy of the exhibit.

3 MR. COLE: This is Adams 19?

4 THE COURT: This is Adams 19, yes.

5 Are you keeping score?

6 MR. HUTTON: We show it as being in.

7 THE COURT: I think it is in. If I have it in in
8 one place, I just forgot to put a note in the other place.

9 So 19 is recorded as being in evidence. That's
10 Adams 19.

11 MR. COLE: Thank you, Your Honor.

12 THE COURT: Now I got two other requests of
13 Reading.

14 Are you in a position this afternoon to move 17 in
15 or are we going to wait until later or tomorrow to do that?

16 MR. HUTTON: I think Mr. Sifers has to get back to
17 his computer.

18 THE COURT: All right. That's fine. The reason
19 I'm asking that is because I have one other, I think it's a
20 small request to make, but there's something else I'd like
21 to see in 17, just as a simple footnote.

22 Remember we had that long discussion about
23 approved by the Commission, that language?

24 MR. SIFERS: Yes.

25 THE COURT: Can you put a footnote after

1 Commission, and then just drop it down and just give me the
2 authority or the source for the use of that concept approval
3 with respect to filing?

4 MR. SIFERS: Okay.

5 THE COURT: That will help me.

6 The other request I have is I think for purposes
7 of storing these documents in Commission binders when they
8 get, they ultimately get to the Secretary's office, it will
9 be a lot easier if these could be photo reduced to 8-1/2 by
10 11, is that doable?

11 MR. HUTTON: When we turn it into a two-page
12 exhibit it will be on 8-1/2 by 11.

13 THE COURT: That's true. 17 will be no problem.
14 How about with 17-A with these stock certificates?

15 MR. HUTTON: We could offer a photo-reduced copy.

16 THE COURT: I think that -- I don't have first-
17 hand knowledge on exactly how they're stored, but I would be
18 willing to bet that legal sized documents are going to stick
19 out of some file. So if it's not too much trouble, if you
20 can bring them in tomorrow morning in a photo reduced form,
21 we'll just swap them.

22 MR. HUTTON: Fine.

23 MR. COLE: 17-A has not been received yet, is that
24 correct?

25 THE COURT: No. It hasn't been received yet, no.

1 MR. COLE: Assuming it were to be received --

2 THE COURT: I'm assuming it had. Have you had a
3 chance to look at it?

4 MR. COLE: I looked at it briefly, but I would
5 like to confer with Mr. Bechtel. I've confirmed that he's
6 going to be here to do Mr. Kase tomorrow, and he's available
7 to do him first thing in the morning. I'd like to defer
8 that discussion until tomorrow morning, if we could.

9 THE COURT: All right.

10 I think that, I don't want to make promises ahead
11 of time, but I think it would be worth your while to have
12 them ready, just in case. But I'm not going to do anything
13 until Mr. Bechtel comes in--

14 MR. COLE: And Your Honor, one final preliminary
15 matter.

16 THE COURT: Sure.

17 MR. COLE: I have completed the insertion of the
18 additional pages into Adams Exhibit 13 of the shareholder
19 minutes. I inserted what was marked for identification as
20 13-A into the appropriate place in those minutes, so the
21 Reporter's copy is now complete.

22 THE COURT: And you've given us the --

23 MR. COLE: That's right.

24 THE COURT: Okay.

25 Mr. Gilbert, would you return to the stand please,

1 sir?

2 (The witness resumes the stand)

3 THE COURT: You're still under oath.

4 THE WITNESS: Yes, sir.

5 MR. HUTTON: Your Honor, I do have one other
6 housekeeping item, and that's a request for you.

7 Tomorrow would it be possible to have a TV/VCR
8 here for our use?

9 THE COURT: I wish you would have told me a day or
10 so ago. What time during the day do you want that?

11 MR. HUTTON: Probably mid-morning or afternoon.

12 THE COURT: Unfortunately, my office manager is
13 taking off this afternoon or she could be working on it this
14 afternoon. But I don't think it would be a problem. We
15 should be able to get something in here by afternoon
16 certainly.

17 MR. HUTTON: Thank you.

18 MR. COLE: Your Honor, may I inquire as to the
19 purpose of that?

20 THE COURT: I was just going to ask that. What
21 would you like it do?

22 MR. HUTTON: I don't want to put it into the
23 record, but for purposes of Cross-Examination of Mr. Boothe,
24 I think it would be helpful for me to be able to refer him
25 to some videotape.

1 THE COURT: Videotape of what? Refresh my
2 recollection. Mr. Boothe, what role does he play in this
3 and what's going to be the nature of that Cross-Examination?

4 MR. HUTTON: Mr. Boothe is sponsoring the Adams
5 Direct case on Reading's renewal record. He is the legal
6 assistant from Bechtel & Cole who went through and did a
7 composite week analysis of the renewal record. And he
8 offers testimony as to how much programming in his
9 calculations the station did in various categories.

10 THE COURT: I see, and what would be the nature of
11 the videotape?

12 MR. HUTTON: It's mostly -- It's for purposes of
13 Cross-Examination. I want to test his analysis of what
14 types of programs were included in his tabulations versus
15 what types of programs were excluded. And there are a
16 couple of different types of tapes. One is a compilation of
17 some of the public service programming aired on the station
18 during one of his composite week days; and another tape for
19 comparative purposes is a tape of news programming from
20 another station.

21 THE COURT: Programming from a different station?

22 MR. HUTTON: That's right. I'm not trying to
23 introduce it into the record. I'm happy to have him review
24 the videotapes while we're off the record, but I think it
25 would be helpful for my Cross-Examination to be able to have

1 him review that.

2 THE COURT: Why not just give the tapes to Mr.
3 Cole and have Mr. Boothe look at them tonight or tomorrow
4 morning while we're in court? Why do we have to take the
5 Court's time to do that? Is that doable?

6 MR. HUTTON: I think to be effective in Cross-
7 Examination it might be helpful for everyone to be on the
8 same page and have seen the same programming.

9 THE COURT: I don't like doing things without it
10 being on the record, though. If it's going to be something
11 that's going to come in as a form of even a visual assist, I
12 think we're probably going to have to get it marked and get
13 it into the record.

14 MR. HUTTON: We can do that. It just will require
15 me to make some more copies.

16 THE COURT: Let's hear from Mr. Cole. We're not
17 sure we're even going to use it yet.

18 MR. COLE: Yeah, I'm a little bit taken aback by
19 this because this is the first we're hearing about this, and
20 frankly, Mr. Boothe did not utilize any videotapes or any
21 other such materials to prepare the exhibit. We operated
22 off of the documentary record which had been provided to us
23 by Reading Broadcasting in discovery and performed our
24 analysis as set forth in the exhibit the way we did it. If
25 they want to test that, they can test that. But I see no

1 purpose in showing him a bunch of materials which he hasn't
2 seen before and expect him to get any kind of probative
3 value out of that.

4 THE COURT: I'm having a hard time following this
5 myself, Mr. Hutton.

6 MR. HUTTON: Mr. Boothe went through the composite
7 week logs that he selected and indicated that he viewed some
8 of the programming as public service programming and other
9 programming as non-public service programming. And it's our
10 view that he was highly selective in doing so, and to Cross-
11 Examine him, I want to be able to show him the types of
12 things that got omitted from his analysis.

13 THE COURT: Well, there's a Commission rule with
14 respect to using recordings in proceedings. I'm not looking
15 at it right now, but there is a provision in there about
16 having transcripts.

17 I can't see how I can make a record out of a tape
18 recording -- even if somehow it's connected to this witness
19 in some way, shape or form. I'd have to describe what the
20 programming was based on the tape, and then compare that to
21 the testimony of the witness and the exhibit that he moves
22 in.

23 MR. HUTTON: Your Honor, what I anticipated is
24 simply that we go off the record, have the witness watch the
25 videotape and take notes, and then I get to question the

1 witness as to why this programming doesn't fall within his
2 definition of what is public service programming.

3 THE COURT: You mean it's like a test?

4 MR. HUTTON: Well, I'm testing the assumptions
5 that underlie his multi-volume analysis.

6 THE COURT: I'm very disinclined to permit it to
7 go along this way for a number of reasons, one of which is,
8 if this was going to be done it should have been much more
9 advance notice of it. And any videotape that's going to be
10 used in that fashion would certainly need to be part of the
11 evidence. And to come in under the Commission's rules it
12 would need to have a transcript to go along with it. The
13 Commission just doesn't take tape recordings and put them in
14 the record. Without a transcript, for the reasons that I
15 said earlier.

16 So if this is a proffer, along the same lines that
17 I denied several of the Adams proffers, I'm not going to
18 receive that. I'm not going to consider that, and I'm not
19 going to allow you the procedure. Sorry, but it's too much
20 too late.

21 MR. HUTTON: I haven't even started his Cross-
22 Examination, and I have trouble understanding why I'm not
23 allowed to go to the direct source to test his assumptions.

24 THE COURT: Every time -- I'll tell you why. In
25 addition to the reasons that I've just given, when, Adams

1 tried to get in some evidence that I've excluded. The
2 documents have always come before us and I've had a chance
3 to look at them and to hear argument on them.

4 I can't do that with a videotape. I certainly
5 don't intend to sit there and watch a videotape and then
6 have arguments made as to whether it should be used or not.
7 It doesn't fit within the Commission's rules, number one;
8 and number two, I don't see how I can do justice to that
9 kind of a situation. I don't know how I can address that as
10 evidence. I don't know how I can even assess it. It's a
11 tape. It's a tape of a program.

12 I don't know -- It's difficult to articulate a
13 reason for rejecting it other than what I've said, because
14 I've never had anything proposed like this before.

15 MR. HUTTON: Well, I recognize that it's unusual,
16 but I think it's an appropriate form of Cross-Examination.

17 THE COURT: I disagree with that. You're going to
18 have to come up with some better source authority to show me
19 that the Court should consider it in the context of this
20 kind of an issue. Videotape is used for a lot of things,
21 muggings and things like that, but that's not what we're
22 talking about.

23 I'm not going -- That's my ruling. If you can
24 come up with some better reason to convince me, I'll listen,
25 but the primary reason is because of the lateness of the

1 hour. One, it's an inconvenience to our staff to have to at
2 the last minute get special services to arrange to have that
3 in here and have something that's working, have it tested,
4 be sure that it's going to work. Number two, there's been
5 no advance notice to me or to counsel. We don't really have
6 an opportunity to review this material before we go on the
7 record. We could, but I'm not going to certainly stop a
8 hearing to do it at this stage of the game. And for all the
9 other reasons I've said. It's an unwieldy, unreliable
10 source to test somebody's evaluation of programming.

11 Let's go on with the witness. The witness is
12 here.

13 MR. HUTTON: All right.

14 CROSS-EXAMINATION CONTINUED

15 BY MR. HUTTON:

16 Q Mr. Gilbert, I'm referring now to Reading Exhibit
17 21. I meant to ask you, and I'm asking you now, since June
18 30, 1999 have there been any amendments or modifications to
19 the agreement set forth in that exhibit?

20 A That's the Adams Communications Corporation
21 Exhibit 1?

22 A No. Reading Exhibit 21.

23 THE COURT: That's the letter dated June 30.

24 THE WITNESS: No, sir.

25 MR. HUTTON: I would ask that Reading Exhibit 21

1 be received into evidence.

2 THE COURT: Is there any objection?

3 MR. COLE: No, Your Honor.

4 THE COURT: Reading Exhibit 21 is received.

5 (The document referred to,
6 having been previously marked
7 for identification as Reading
8 Exhibit No. 21 was received in
9 evidence.)

10 BY MR. HUTTON:

11 Q I'd like to refer the witness back to Reading
12 Exhibit 19 which is the joint request for approval of the
13 Monroe settlement agreement.

14 Mr. Gilbert, referring to the settlement
15 agreement, is there any provision in that agreement that
16 requires the incumbent licensee, Harriscope of Chicago,
17 Inc., to program the station in a certain way?

18 A No.

19 Q Did you ever ask for such a provision in
20 negotiating the agreement?

21 A No.

22 MR. HUTTON: I'd like to have marked as Reading
23 Exhibit 22 a copy of the Commission order approving that
24 settlement agreement. It is FCC Document No. 92I-097
25 released December 24, 1992.

1 THE COURT: As described by counsel, this document
2 will be marked for identification as Reading Exhibit No. 22.

3 (The document referred to was
4 marked for identification as
5 Reading Exhibit No. 22.)

6 BY MR. HUTTON:

7 Q Mr. Gilbert, as I recall the terms of the
8 settlement agreement, the first payment was to be made after
9 the order approving the settlement agreement and dismissing
10 the Monroe application became final. Is that correct?

11 A Yes.

12 Q By my calculation that would mean that the first
13 payment would be due sometime in February of 1993?

14 A Whenever the agreement says.

15 Q Is that generally consistent with your
16 recollection?

17 A I'm very bad on dates. Whatever it was, it was
18 done in accordance with the agreement.

19 Q And that's true also of the second payment?

20 A Yes. But you know, getting back to my previous
21 answer, I answered without going through the document. Then
22 I see the order which was drafted, as I recall, between us,
23 and there were extensive negotiations on this whole
24 situation, and in the agreement we have in paragraph four,
25 by allowing the continuation of the station's current

1 exemplary Spanish-language programming which was intended,
2 on our part, as far as we could drive it, to provide that
3 they were going to continue Spanish broadcasting.

4 THE COURT: Wait just a second. Put this in
5 context.

6 This is language that's in paragraph four of the
7 Commission's order.

8 THE WITNESS: We drafted the order, Your Honor,
9 jointly.

10 THE COURT: Right, but I want, you answered rather
11 quickly and I want to be sure, that is not a provision in
12 the settlement agreement.

13 THE WITNESS: I didn't say that. There is no
14 provision in the settlement agreement, but we did draft into
15 the order that provision.

16 Actually, only an idiot has himself as his own
17 counsel, as you probably know. I didn't participate in the
18 drafting of the settlement agreement or the joint request,
19 although I did review everything.

20 BY MR. HUTTON:

21 Q So it's your testimony that you or counsel for
22 Adams participated in drafting Reading Exhibit 22?

23 A I just said I did not participate.

24 Q I thought you said you helped draft the order.

25 A I said counsel drafted the order. I didn't draft

1 the order. I didn't draft any of this.

2 Q Okay, counsel for Reading, it's your testimony
3 that counsel for Reading --

4 A Counsel for Adams. Counsel for Monroe.

5 Q I'm sorry. Counsel for Monroe participated in
6 drafting Reading Exhibit 22?

7 A Correct.

8 Q And does that document require Harriscope of
9 Chicago, Inc. to program the station in a certain way after
10 the renewal is granted?

11 THE COURT: That document, you mean Exhibit 22?

12 MR. HUTTON: Yes.

13 THE WITNESS: Well joint request on page five,
14 just reading it, and I haven't read this in a long time --

15 THE COURT: Which document are you on, sir?

16 THE WITNESS: Reading Exhibit 19.

17 THE COURT: We're on a different document then.

18 MR. HUTTON: I'd like you to stick to the document
19 that we were just talking about, Exhibit 22.

20 THE COURT: Mr. Gilbert, legal counsel, follow his
21 question with respect to the document that he now wants to
22 ask you a question about.

23 THE WITNESS: Yes, sir.

24 THE COURT: That's Exhibit 22 for identification
25 which is the Commission's order. That's the short document

1 there.

2 Would you just please restate your question so the
3 witness can be with us?

4 BY MR. HUTTON:

5 Q Is there anything in Exhibit 22 that requires
6 Harrisclope of Chicago, Inc. to program the station in a
7 certain way going forward from the date of the order?

8 A What we have is paragraph four, which states, "The
9 parties assert that approval of the settlement would serve
10 the public interest by eliminating the need for further
11 protracted litigation by reducing the uncertainty over the
12 future of Channel 44 and by allowing the continuation of the
13 station's current exemplary Spanish language programming."

14 Q Is it your testimony that that is an order to
15 continue that programming from the date of the order going
16 forward?

17 A Probably as close as we could get. The direct
18 answer is no. It is not an order requiring the continuation
19 of Hispanic programming.

20 MR. HUTTON: I would ask that Reading Exhibit 22
21 be received into evidence.

22 THE COURT: Any objection?

23 MR. COLE: No objection, Your Honor.

24 THE COURT: Reading Exhibit 22 for identification
25 is now in evidence as Reading Exhibit 22.

1 (The document referred to,
2 having been previously marked
3 for identification as Reading
4 Exhibit No. 22 was received in
5 evidence.)

6 MR. HUTTON: I'd like to have marked as Reading
7 Exhibit 23 a copy of the Articles of Incorporation of Adams
8 Communications Corporation.

9 THE COURT: Do you have the number of pages on
10 that document?

11 MR. HUTTON: I seem to have a mental block about
12 pagination.

13 THE COURT: It might come up again when you put in
14 your proposed findings. There's a reason for all of this.

15 This is not a faulty document.

16 MR. HUTTON: It consists of two pages of text
17 followed by an Exhibit A, followed by a page with, one page
18 with Articles 7, 8, and 9.

19 THE COURT: I counted five pages, is that right?

20 MR. HUTTON: Yes, sir.

21 THE COURT: Okay. This is a copy of the Articles
22 of the organization, Adams Communications Corporation, from
23 the Commonwealth of Massachusetts and it's a five page
24 document. Marked for identification as Reading Exhibit 23
25 for identification.

1 (The document referred to was
2 marked for identification as
3 Reading Exhibit No. 23.)

4 BY MR. HUTTON:

5 Q Mr. Gilbert, did Adams Communications Corporation
6 have any prior Articles of Incorporation or Articles of
7 Organization?

8 A This says Articles of Incorporation.

9 Q It says Articles of Organization. Did -- What I'm
10 asking is --

11 A That's Massachusetts verbiage.

12 Q Right. What I'm asking is, is this the only
13 version of Articles of Incorporation that the company
14 adopted?

15 A Yes.

16 Q And the stamp indicates filing on November 23,
17 1993 with the State of Massachusetts. Is that correct?

18 A Yes.

19 Q Does Exhibit A to that document correctly, Exhibit
20 A to Reading Exhibit 23 correctly identify the directors of
21 Adams Communications Corporation?

22 A Yes.

23 Q Does the following page of Exhibit 23 correctly
24 identify the officers of the company?

25 A Yes.

1 Q And was stock issued in the company on or around
2 the date of filing the Articles of Organization?

3 A Probably, yes.

4 Q And were those stock certificates distributed to
5 the shareholders of the company?

6 A I don't know. They may be in our corporate
7 office, they may have been distributed. I just don't know.

8 Q What was it that led Adams to incorporate in
9 Massachusetts?

10 A Adams incorporated in Massachusetts because we
11 thought we would file our challenge against Home Shopping
12 Network, against a station in Massachusetts which was also
13 not serving the public interests.

14 Q Which station was that?

15 A It was the Boston Home Shopping Network Station.

16 Q Was that a station owned by Silver King
17 Communications?

18 A I just don't remember, but very possibly. There
19 only was one station in Boston at that time.

20 Q Prior to adopting the Articles of Organization,
21 what stations had the company or principles looked at in
22 terms of possible renewal challenge?

23 A I don't know what you mean by looked at, but we
24 reviewed all the home shopping stations owned by Silver King
25 and others around the country. We believed that basically

1 home shopping network, while not inherently incapable of
2 serving the public interest, probably did, and we had made
3 an effort as we traveled around the country to try to view
4 the stations and see what happened. In Chicago, of course,
5 we looked at it a lot.

6 Q With reference to the incorporation of the company
7 on November 23, 1993, how much time had you and others from
8 Adams spent doing that analysis?

9 A A significant amount.

10 Q Weeks or months?

11 A Doing the analysis? Less than a week.

12 Q When was that taking place?

13 A It was many years ago, obviously, it's '93. Taken
14 place over a period of more than two months, maybe six
15 months.

16 Q Six months prior to November of '93?

17 A Very possibly, yeah. We were ready to go when we
18 incorporated in what was not a convenient forum,
19 Massachusetts.

20 Q Did Adams ever file a competing application
21 against the home shopping station in the Boston market?

22 A No.

23 Q Why not?

24 A We were unable to find a transmitter site after
25 spending a lot of money and negotiating with a lot of people

1 and really it was the engineers who kept knocking it out at
2 the end.

3 Q Was Eleanor Warren of Adams Communications part of
4 the group at that time?

5 A She was involved with the brokerage, yes.

6 Q What do you mean, involved with the brokerage?

7 A Yes, she was part of the group, yes.

8 Q And why was she asked to be part of the group?

9 A Because she was instrumental in helping us find
10 brokers and sites.

11 Q Ultimately did Adams ever file any competing
12 applications against any entity other than the Reading,
13 Pennsylvania station?

14 A No.

15 Q Why not?

16 A Well, several reasons. First, we have to wait
17 until a license comes up. The only license, the first
18 license that came up was Boston. After very extensive
19 efforts we were unable to find a transmitter site in Boston,
20 even though we felt we had a pretty good case. The next one
21 that came up sequentially was Reading. And then the law was
22 changed.

23 And certainly the financial burden of filing one
24 of these cases is extraordinary, not to mention the time
25 commitment. I don't know that we had the capacity to handle

1 more than one case at a time.

2 I also should add it's very hard to get lawyers to
3 handle these cases because you're bucking the industry and
4 by doing this you create all kinds of programs, and we only
5 had one law firm that we were working with which was Bechtel
6 & Cole and they could only handle so much, frankly.

7 THE COURT: You didn't have any problem finding a
8 law firm.

9 THE WITNESS: Yeah, it was very hard, Your Honor.

10 THE COURT: In this case?

11 THE WITNESS: We had Bechtel & Cole. We had --

12 THE COURT: That's what I say, you didn't have
13 trouble finding it.

14 THE WITNESS: We had trouble finding engineers
15 that would do it --

16 THE COURT: You said lawyers.

17 THE WITNESS: But it is --

18 THE COURT: You didn't have any problem finding a
19 lawyer.

20 THE WITNESS: Because we had Bechtel & Cole.

21 THE COURT: That's what I'm saying. Every client
22 that has a lawyer they like does the same thing.

23 THE WITNESS: Okay.

24 THE COURT: Go ahead.

25 MR. HUTTON: I'd like to show the witness a

1 portion of his deposition for purposes of impeachment.

2 THE COURT: You may approach the witness.

3 MR. COLE: May I inquire what page?

4 MR. HUTTON: Page 17.

5 THE COURT: Do you have a copy for me?

6 MR. HUTTON: Yes.

7 THE COURT: Have you finished with the witness on
8 Exhibit 23?

9 MR. HUTTON: Yes, I have.

10 THE COURT: Do you want to move it in?

11 MR. HUTTON: Yes, please.

12 THE COURT: Any objection?

13 MR. COLE: None, Your Honor.

14 THE COURT: Reading Exhibit 23 for identification
15 is now received into evidence.

16 (The document referred to,
17 having been previously marked
18 for identification as Reading
19 Exhibit No. 23 was received in
20 evidence.)

21 THE COURT: This is the witness' deposition that
22 was taken on the 14th day of October this year. What page
23 are you referring to?

24 MR. HUTTON: Page 17.

25 THE COURT: Mr. Gilbert, do you have that page?

1 THE WITNESS: Yes, sir.

2 THE COURT: Go ahead.

3 BY MR. HUTTON:

4 Q Mr. Gilbert, on line ten my question to you was,
5 "Did you individually or did the group collectively reach a
6 decision not to file against any of the Silver King
7 stations."

8 Answer: "We never filed. That's all I can
9 remember of that result."

10 A Uh huh.

11 Q Question: "Do you know why not?"

12 Answer: "None of them were coming up for renewal
13 at that point. If they had, we would have."

14 A Uh huh.

15 Q Was that your testimony at that time?

16 A I stated that, yes.

17 Q Was that accurate?

18 A I don't think so since we only could handle one
19 station at a time.

20 Q So why did you testify that you would have filed
21 if they had come up for renewal?

22 A Well we knew they came up every couple of years, I
23 suspect. I don't know why. We only filed for one. We
24 never had the dollars to file for more than one, frankly.

25 Q So your deposition testimony was false.

1 A It's what I said.

2 Q Thank you.

3 Is it true that the only reason Adams chose to
4 file a competing application in Reading, Pennsylvania is
5 because that station aired home shopping programming?

6 A We felt that it wasn't, A, it aired home shopping
7 programming; B, when I reviewed the tapes of several weeks
8 of tapes, we found that it wasn't providing adequate public
9 service broadcasting. Thirdly, we knew that Mr. Parker
10 controlled the station and we felt that he wasn't a suitable
11 owner of television stations in the United States.

12 Also at the time we filed it I had been to the
13 community and nobody in the community knew very much about
14 the station. I never talked to anybody who had viewed it,
15 and I couldn't find it in the local program. Went to the
16 Reading Eagle and asked them how come they didn't do it, and
17 nobody even had an answer for me as to why they didn't have
18 it in the program, in the newspaper.

19 (Pause)

20 THE WITNESS: Your Honor, can I modify that answer
21 in one respect?

22 THE COURT: Yes.

23 Do you object to that, Mr. Hutton?

24 MR. HUTTON: No.

25 THE WITNESS: When I said I had viewed the tapes

1 of the station, we had had more than two weeks of tapes that
2 the station recorded, by several people. We had the tapes,
3 and I reviewed most of the tapes before we filed. I also
4 had daily reports on what was coming in together with the
5 findings of PSA which confirmed what I saw.

6 Later on, years later, I find out that the people
7 who had been doing the taping had actually taped not the
8 over-the-air feed but the cable feed and there was a
9 difference between the two which I didn't know about,
10 although substantially, but not totally, the same.

11 THE COURT: I'm somewhat familiar with the
12 situation that you're describing. But I'll let Mr. Hutton
13 develop the point in questioning.

14 MR. HUTTON: I'd like to show the witness a
15 portion of his deposition for purposes of impeachment.

16 BY MR. HUTTON:

17 Q Mr. Gilbert, please refer to page 45 of your
18 deposition.

19 A Yes.

20 MR. HUTTON: I'm sorry. I misread it.

21 THE COURT: Are you finished with the deposition?

22 MR. HUTTON: Yeah, I'd like to go off the record
23 for a moment to check something else, though.

24 THE COURT: Off the record.

25 (Pause)

1 THE COURT: We're back on the record.

2 Mr. Hutton?

3 MR. HUTTON: I'd like to have marked as Reading
4 Exhibit 24 a copy of the Declaration of Howard Gilbert dated
5 November 22, 1999. It's a six page document.

6 THE COURT: This will be Reading Exhibit 24 for
7 identification. It's entitled Declaration. It bears the
8 name of the witness, Howard N. Gilbert. And it was signed
9 on November 22nd, 1999.

10 I take it it was submitted in connection with this
11 case?

12 MR. HUTTON: It was.

13 THE COURT: The Reporter will so mark that
14 document as Reading Exhibit 24 for identification.

15 (The document referred to was
16 marked for identification as
17 Reading Exhibit No. 24.)

18 BY MR. HUTTON:

19 Q Mr. Gilbert, was this your sworn declaration in
20 this case?

21 A I signed it, yes.

22 Q And what purpose was this prepared for?

23 A I don't even remember.

24 Q Was it submitted by you in connection with Adams'
25 opposition to the abuse of process issue requested by

1 Reading Broadcasting?

2 A I really just don't remember. I'm not going to
3 contest it, but I just don't remember.

4 MR. HUTTON: Counsel, can we stipulate that it was
5 submitted as part of the Adams opposition?

6 MR. COLE: Sure. The document speaks for itself.
7 Paragraph one says that.

8 THE WITNESS: Right.

9 THE COURT: Do you want the witness to take the
10 time to read any portions of it? Or the whole thing?

11 MR. HUTTON: Yeah, maybe the witness ought to take
12 the time to refresh his recollection about the entire
13 document.

14 THE COURT: Okay. We'll go off the record and
15 permit him to do that.

16 (Pause)

17 THE COURT: On the record.

18 Mr. Gilbert's read it. We're looking at Reading
19 Exhibit 24 for identification.

20 BY MR. HUTTON:

21 Q Referring specifically to paragraphs 10 through 13
22 of that declaration, is there any reference in there to the
23 character qualifications of Mr. Parker or of Reading
24 Broadcasting?

25 A No.

1 Q Why not?

2 A Frankly, I don't know, but I'll tell you one
3 thing, I don't go out of my way to make attacks on people.

4 Q Wasn't the purpose of this portion of the
5 declaration to explain why Adams filed its competing
6 application?

7 A Yes.

8 Q So why did you feel it appropriate to omit any
9 reference to the character qualifications of Adams, I'm
10 sorry, of Reading?

11 A I don't really know other than really, I have just
12 a very personal and actually religious problem with making
13 attacks on individuals or their efforts, etc., unless I'm
14 really, I really don't like it.

15 Q All right. Had that prevented Adams from filing
16 three motions to enlarge issues against Reading challenging
17 its character qualifications in this case?

18 A No.

19 Q Isn't it true that Adams has repeatedly accused
20 Reading of lying in this case?

21 A I'm not sure what you mean by Adams. Can you give
22 me a specific example? Although I believe, frankly, that
23 Reading has lied, if you want my opinion.

24 The first witness got up there and said they were
25 in the Reading Eagle at a time when I had been there and

1 seen that they weren't.

2 THE COURT: Let's wait until counsel frames a
3 question. That's really beyond what he asked.

4 THE COURT: Let's go off the record.

5 (Pause)

6 THE COURT: On the record.

7 BY MR. HUTTON:

8 Q I'd like to show the witness page 19 from the
9 December 1, 1999 consolidated reply of Adams Communications
10 Corporation.

11 THE COURT: Is this a pleading or an exhibit?

12 MR. HUTTON: It's a pleading.

13 THE COURT: Did you get involved with pleadings
14 much, Mr. Gilbert, in this case?

15 THE WITNESS: Do I read them all before they're
16 filed? Pleadings, not necessarily, no. Some I do and some
17 I don't.

18 THE COURT: How about this one?

19 THE WITNESS: I'm looking --

20 (Pause)

21 THE WITNESS: The first page doesn't, I don't
22 remember seeing the first page.

23 THE COURT: Did you direct him to a specific page?

24 MR. HUTTON: Page 19, but I'm happy to have him
25 refresh his recollection about the pleading.

1 THE COURT: Off the record.

2 (Pause)

3 THE COURT: On the record.

4 Go ahead, sir.

5 THE WITNESS: I don't remember -- When was this
6 filed?

7 MR. HUTTON: December 1.

8 THE COURT: 1999.

9 THE WITNESS: I don't remember seeing this before
10 it was filed.

11 BY MR. HUTTON:

12 Q Did you see it after it was filed?

13 A I would assume I did, but I can't remember. I'm
14 sure I saw it after it was filed, I just don't remember --
15 Usually I get a copy, but I don't remember --

16 THE REPORTER: I can't hear you.

17 THE WITNESS: Sorry.

18 THE COURT: Can you move up to the microphone?
19 And don't talk unless you really want to be heard.

20 THE WITNESS: I just don't remember seeing this
21 before, Your Honor.

22 MR. HUTTON: All right, well if you haven't seen
23 it, I don't have any questions.

24 THE COURT: That was a pleading that he was being
25 shown. It's not in the record, I mean it's not in the trial

1 record. Since there's not going to be any testimony, we'll
2 move on to the next item.

3 THE COURT: We'll go off the record.

4 (Pause)

5 THE COURT: Back on the record.

6 Mr. Hutton?

7 BY MR. HUTTON:

8 Q Mr. Gilbert, do you recall attending the
9 deposition of Mr. Haag in this proceeding?

10 A Yes, sir.

11 Q Do you recall if Mr. Haag testified that Reading's
12 character qualifications were one of the reasons for filing
13 the Adams application?

14 A I don't recall, but if you say he said it in the
15 deposition I would agree with you.

16 Q I'm not saying he said it. I'm asking if you
17 recall that.

18 A No.

19 Q Do you recall the deposition of Mr. Umans in this
20 case?

21 A Yes.

22 Q And do you recall if Mr. Umans indicated that
23 character qualifications were one of the reasons for filing
24 against Reading Broadcasting?

25 A I don't recall if he said that.

1 Q Isn't it true that none of the Adams principles
2 deposed in this case offered that as a reason for filing the
3 Adams application?

4 A I'd have to look at the depositions, but it's
5 entirely possible if you say so.

6 Q I'd like you to refer to the testimony of Mr.
7 Haag. I'd like to show it to you for purposes of refreshing
8 your recollection.

9 THE COURT: Mr. Hutton, if it's just one or two
10 lines and you want to just read it into the record and ask
11 him a question or make your point, that's permissible. You
12 certainly have to show counsel a copy of the transcript,
13 but --

14 MR. HUTTON: Well it's more than one or two lines.

15 THE COURT: Okay. Let's go off the record.

16 (Pause)

17 THE COURT: On the record.

18 Let the record reflect that the witness and
19 counsel and myself have been handed copies of the transcript
20 of the deposition of Robert L. Haag, H-A-A-G, that was taken
21 Friday, November 12, 1999. And the witness has been
22 directed to page seven and pages thereafter, is that right?

23 MR. HUTTON: Pages seven through nine.

24 THE WITNESS: Yes.

25